

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.36822 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner questioning the action of respondents 2 & 3 in not releasing the petitioner's vehicle (JCB) bearing No.TS 07 ACTR 7884 in spite of the petitioner offering to pay the penalty as contemplated under G.O.Ms.No.15, dated 19.02.2015, as illegal, arbitrary and unconstitutional.

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader representing respondents 1 & 2. I have perused the material record.

3. Learned counsel for the petitioner while stating that the JCB was seized while transporting sand would further submit that in view of the terms of the afore-stated GO, the petitioner is entitled to seek release of the JCB from the 2nd respondent and that the 2nd respondent is empowered to release the JCB and that the issue is covered by the decisions of this Court.

4. Learned Assistant Government Pleader would submit that the seized JCB is deposited/produced before the Court of the learned Judicial Magistrate of First Class, Devarakonda, on 01.11.2017, and, therefore, the writ petitioner is required to make appropriate application before the Court of the learned Magistrate for release of the said JCB.

5. In reply, learned counsel for the petitioner would submit that the learned Magistrate returned Form 66 and, therefore, the 2nd respondent is still seized of the matter and that he is competent to release the JCB.

6. Having regard to the submissions and the terms of G.O.Ms.No.15, dated 19.02.2015, the Writ Petition is disposed of with the following directions: 'The petitioner is at liberty to approach either the learned Magistrate before whom the JCB was said to have been produced and file an application as per the procedure established by law and seek release of the JCB by bringing to the notice of the Court, the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioner so desires; or, in the alternative the petitioner may make a request to the 2nd respondent by filing appropriate application for release of the JCB; and, if any such application comes to be filed before the 2nd respondent, the 2nd respondent is at liberty to pass appropriate orders as per terms of G.O.Ms.No.15, dated 19.02.2015, after examining the competence and jurisdiction to release the JCB, which was said to have been produced before the Court concerned.' It is needless to state that the application, if any, filed by the petitioner before either the Court or the 2nd respondent shall be disposed of on the same day in the interests of justice.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 3rd November, 2017

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